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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): David R. Smith

Group Art Unit: 2621

Application No.: 10/687,179

Examiner:

Filed: 10/15/2003

Title: Laminograph Deshadowing

Attorney Docket No.: 10020667-1

**RECEIVED**

**JUN 15 2004**

**OFFICE OF PETITIONS**

DECLARATION BY ROBERT T. MARTIN IN SUPPORT OF PETITION UNDER  
37 C.F.R. 1.47(b)

Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1.

I, Robert T. Martin, am an attorney representing Agilent Technologies, Inc. ("Agilent") in the above identified matter. It is believed that David R Smith conceived the present invention while an employee of Agilent. Shown as Exhibit B to this Declaration is a reproduction of the Agreement Regarding Confidential Information and Proprietary Developments (ARCIPD) signed by David R Smith on October 9, 1999. In section 3(c) of the ARCIPD, David R. Smith agrees "to execute all documents and cooperate with Agilent in all necessary activities to obtain patent, copyright, mask works, and/or trade secret protection in all countries, at Agilent's expense."

Agilent Technologies Attorney Docket No. : 10020667-1

2.

While Mr. Smith is no longer employed by Agilent, the preparation of the instant patent application was begun during his employment. During the period of his employment, Mr. Smith was contacted frequently by outside counsel responsible for preparing the application. Mr. Smith on several occasions willingly provided descriptions of the subject matter of the instant application and reviewed drafts. Work on the application continued after the termination of Mr. Smith's employment with Agilent. Mr. Smith reviewed and approved an additional draft of the application, and provided information for the IDS filed with the application.

3.

A set of formal documents, including a copy of the application approved by Mr. Smith, the Declaration and Power of Attorney, and Assignment, was sent to Mr. Smith via Federal Express on September 26, 2003. While Mr. Smith acknowledged receipt of these materials in an electronic mail dated September 29, 2003, Mr. Smith has not returned the documents as requested.

4.

The instant application was filed with the U.S.P.T.O. on October 15, 2003, without the signature of inventor David R Smith.

5.

An additional set of formal documents, including a copy of the application approved by Mr. Smith, the Declaration and Power of Attorney, and Assignment, was sent to Mr. Smith via Express Mail on October 28, 2003, after the filing of the instant application. A copy of the cover letter, a copy of the Express Mail label, and a copy of the Express Mail customer copy are attached to this Petition as Exhibit C. Mr. Smith has not returned the documents as requested.

The filing of this Patent is necessary to preserve the rights of Agilent Technologies, Inc. in the instant invention. A Declaration and Power of Attorney

executed on behalf of Agilent Technologies, Inc., by Edward W. Barnholdt, Chairman, President and Chief Executive Officer of Agilent Technologies, Inc. is attached as Exhibit C.

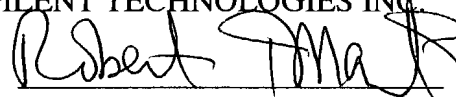
6.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief; are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully Submitted,

AGILENT TECHNOLOGIES INC

By:



Robert T. Martin  
Reg. No. 32,426

Agilent Technologies Inc.  
Legal Department, DL 429  
Intellectual Property Administration  
P. O. Box 7599  
Loveland, Colorado 80537-0599

Dated: June 08, 2004

Tel.: 650 485-7533

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on June 08, 2004.

By Nelia T. de Guzman  
Nelia T. de Guzman

Date June 8, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): David R. Smith

Group Art Unit:

**RECEIVED**

Application No.: 10/687,179

Examiner:

**JUN 15 2004**

Filed: 10/15/2003

**OFFICE OF PETITIONS**

Title: Laminograph Deshadowing

Attorney Docket No.: 10020667-1

RESPONSE FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)

Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant filed a petition on 9 February 1994 under 37 CFR 1.47(b). This petition was DISMISSED in a writing mailed April 09, 2004.

In response to the dismissal, Applicant submits as Exhibit A revised petition addressing the deficiencies noted:

(1) Petitioner must submit proof that a copy of the application was sent.

Applicant has included copies of the cover letter and Express Mailing certificate.

(2) An oath must be presented. An oath signed by an officer of Agilent Technologies, Inc, on behalf of and as agent for the non-signing inventor is attached.

(6) Petitioner must provide a statement that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties. As stated in the petition, the filing is necessary to preserve the rights of Agilent Technologies, Inc., in the invention.

Agilent Technologies Attorney Docket No. : 10020667-1


Submitted herewith as Exhibit A is evidence sufficiently establishing that the inventor, David R Smith, of the above identified application refuses to join in the instant application or cannot be found or reached after diligent effort. The last known address of the foregoing inventor is:

David R. Smith  
5454 Milligan Drive  
San Jose, CA 95124

Applicant respectfully requests that the unsigned Declaration for the application filed on 10/15/2003 be accepted by the U.S. Patent and Trademark Office without the signature of inventor David R. Smith pursuant to 37 C.F.R. 1.47(a). Separately submitted herewith is an authorization to charge the petition fee set forth in 37 C.F.R. 1.17(h) and any other required fees to Agilent Technologies deposit account no. 50-1078.

Respectfully Submitted,

AGILENT TECHNOLOGIES INC.

By:   
Robert T. Martin  
Reg. No. 32,426

Agilent Technologies Inc.  
Legal Department, DL 429  
Intellectual Property Administration  
P. O. Box 7599  
Loveland, Colorado 80537-0599

Dated: June 08, 2004

Tel.: 650 485-7533

IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): David R. Smith

Serial No.: 10/687,179

Examiner:

Filing Date: Oct. 15, 2003

Group Art Unit:

Title: Laminograph Deshadowing

RECEIVED

JUN 15 2004

OFFICE OF PETITIONS

COMMISSIONER FOR PATENTS  
PO Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- ( ) Response/Amendment ( ) Petition to extend time to respond  
( ) New fee as calculated below ( ) Supplemental Declaration  
( ) No additional fee (Address envelope to "Mail stop Non-Fee Amendments")  
(X) Other: Resp.For Reconsideration of Petition-37CFR1.47(b) (fee \$ )

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X \$18	\$ 0
INDEP. CLAIMS		MINUS		= 0	X \$86	\$ 0
[ ] FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ \$290	\$ 0
EXTENSION FEE	1ST MONTH \$110.00	2ND MONTH \$420.00	3RD MONTH \$950.00	4TH MONTH \$1480.00		\$ 0
OTHER FEES						\$
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 50-1078 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this sheet is enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: June 8, 2004

Typed Name: Nelia T. de Guzman

Signature: *Nelia T. de Guzman*

Respectfully submitted,

David R. Smith

By *Robert T. Martin*

Robert T. Martin

Attorney/Agent for Applicant(s)

Reg. No. 32,426

Date: June 8, 2004

**DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION**

**ATTORNEY DOCKET NO. 10020667-1**

As a below named inventor, I hereby declare that:

My residence/post office address and citizenship are as stated below next to my name:

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**LAMINOGRAPH DESHADOWING**

the specification of which is attached hereto unless the following box is checked:

☒ was filed on October 15, 2003 as US Application Serial No. or PCT International Application Number 10/687,179 and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understood the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose all information which is material to patentability as defined in 37 CFR 1.56.

**U. S. Priority Claim**

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION SERIAL NUMBER	FILING DATE	STATUS (patented/pending/abandoned)

**POWER OF ATTORNEY:**

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Customer Number

**022878**

Place Customer  
Number Bar Code  
Label here

Send Correspondence to :  
AGILENT TECHNOLOGIES, INC.  
Legal Department, DL 429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, Colorado 80537-0599

Robert T. Martin  
(650) 485-7533

Direct Telephone Calls To:  
OR

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Inventor: David R. Smith  
Residence: 5454 Milligan Drive, San Jose, California 95124  
Post Office Address: Same As Residence

Citizenship: U. S. A.

By: Edward W. Barnholt  
Chairman, President & Chief Executive Officer  
Agilent Technologies, Inc.  
395 Page Mill Road  
Palo Alto, CA 94306-2024

June 7, 2004  
Date





**Agilent Technologies**

Agilent Technologies, Inc.  
Intellectual Property Practice Group  
3500 Deer Creek Road  
Mail Stop 26U-25  
Palo Alto, CA 94304-1317

650 485 8746 telephone  
650 485 5487 facsimile  
[www.agilent.com](http://www.agilent.com)  
nelia\_de-guzman@agilent.com

October 28, 2003

David R. Smith  
5454 Milligan Drive  
San Jose, CA 95124

Re: Documents for Signature  
Attorney Docket No. 10020667-1  
Title: Laminograph Deshadowing

Dear David:


Enclosed are documents for your signature concerning your above-identified patent application:

1. Declaration and Power of Attorney - sign and date where indicated.
2. Assignment - sign and date where indicated; The "Application Signed" date is the date when you signed the Declaration and Power of Attorney.

Please return the signed documents as soon as possible. **A self-addressed post-paid envelope is enclosed for your convenience.**

Please call me if you have any questions. Thank you very much for your cooperation.

Truly Yours,

  
Nelia T. de Guzman  
Legal Administrator

Enclosures

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PALO ALTO CA 94304-1317  
650-485-8746

**TO: (PLEASE PRINT)**  
DAVID R. SMITH  
5454 MILLIGAN DRIVE  
SAN JOSE, CA 95124

Documents For Signature - 100206671

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